

REMARKS

In the Office Action mailed July 12, 2007, the Examiner noted that claims 1-32 were pending, allowed claim 26 and rejected claims 1-25 and 27-33. Claims 1, 5, 12, 20, 21, 27, 28, 31 and 32 have been amended and, thus, in view of the forgoing claims 1-32 remain pending for reconsideration which is requested. No new matter has been added. The Examiner's rejections and objections are traversed below.

On page 5 of the Action, the Examiner rejected claims 1-25 and 27-32 under 35 U.S.C. section 112, paragraph 1 for lack of a supporting written description. Essentially the Examiner asserts that the motion must start in or near a corner to have the motion arc intersect at a perpendicular angle implying that there is only one point of intersection. This is not the case, because the interface itself is arced, the natural motion path can intersect at a number of places (such as higher on the display) and be substantially perpendicular. The Examiner appears to be ignoring that the path is "substantially" perpendicular. Also, by reciting that the arc is in a corner and reaches from edge to edge this reaffirms that multiple arc starting positions can be used. Finally, the Examiner has admitted that at least one instance of what is claimed is supported by a written description in the specification. In particular, the Examiner has stated "This limitation is only supported if the natural motion path starts in the corner or near the corner of the display area. ... the specification only describes the arc shaped persistent graphic being located in a corner responsive to a motion path that starts in the corner" As a result, those who read the specification will recognize that this instance was in the possession of the inventor at the time the application was filed. (Forssmann v. Matsuo, 23 USPQ 2d 1548, 1550 (B.P.A.I. 1992), aff'd, 991 F.2d 809 (Fed. Cir. 1993) [T]o comply with the description requirement of 35 U.S.C. 112, first paragraph, . . . ; all that is required is that the application reasonably convey to persons skilled in the art that, as of the filing date thereof, the inventor had possession of the subject matter later claimed by him.). Withdrawal of the rejection is requested.

In the Office Action, on page 7, the Examiner rejected claims 12-14 under 35 U.S.C. section 112 paragraph 2 as indefinite. Claim 12 has been amended in consideration of the Examiner's comments and it is submitted it satisfies the requirements of the statute. If additional concerns with the claims arise, the Examiner is invited to telephone to resolve the same. Suggestions by the Examiner are also welcome. Withdrawal of the rejection is requested.

On page 7 of the Office Action, the Examiner rejected claims 1-9, 11, 21 and 31 under 35 U.S.C. § 102 as anticipated by Selker.

In making this rejection, particularly in justifying such in the "Response to Arguments" the Examiner has based his position on an asserting what is submitted to be untenable. For example, on page 4 the Examiner bases his continued assertion that the selker pie can be in a corner ("any position") on the statement that Selker makes in paragraph 46 about "The present invention should not be limited by size, shape, position on a computer display, number of levels ...". First, such a boiler plate statement is merely a statement that the reader should experiment. A suggestion to experiment is not a suggestion that will support a rejection. Second, the suggestion is vague and indefinite and makes not specific suggestion as to what to do. As a result, to a person seeking to improve the Selker system, the suggestion is worthless providing no guidance whatsoever. Third, the Examiner's assertion that the suggestion should be followed also would make no sense to those of skill in the art. Taking the statement at face value as the Examiner is suggesting be done means that the Selker pie menu can be located in a place on the display where all of the segments of the pie cannot be accessed. It also means that the pie menu can be of any size, such as larger than the display or so small that it is not usable. Also, if the statement is taken at face value, the "pie" menu need not be shaped like a pie. Taking the statement at face value and making the menu any shape, such as a long skinny rectangle, would destroy the workability of the menu and as well as the objects of what Selker is trying to accomplish. Further, taking the statement at face value would teach away from what the rest of the Selker application teaches. It is submitted that basing the rejection on this statement in Selker does not support a rejection of the claims of this application. The rejection when based on such a statement is without foundation. Withdrawal of the rejection for this reason is requested.

As noted above, Selker is directed to a pie menu. A pie menu is a circular menu made of several "pie slices" around a center. In contrast, claim 1 is directed to a graphical user interface area comprising an arc shaped graphic. A pie is not an arc shaped graphic. (arc - a curve forming **part of** the circumference of a circle - see Compact Oxford English Dictionary, arc -the shape of **part of** a circle, or other curved line - see Cambridge Advanced Learners Dictionary, arc - a continuous **portion** (as of a circle or ellipse) of a curved line - see Merriam-Webster Online Dictionary). For this additional reason, it is requested that the rejection be withdrawn.

Claim 1 also recites "a graphical user interface area located **in a display corner responsive to a natural motion by a user associated with an end of a range of the natural motion**", emphasis added. Selker does not teach or suggest that an arc interface be located in a corner. For this further reason, it is requested that the rejection be withdrawn.

In addition, claim 1 recites "an arc shaped persistent graphic **starting near a first display edge and ending near a second display edge** and defining the interface area where the arc is substantially perpendicular to a natural motion path of the natural motion", emphasis added. Selker does not teach or suggest such. For this additional reason, it is requested that the rejection be withdrawn.

Claims 5, 21 and 31 emphasize similar features.

It is submitted that claims 1-9, 11, 21 and 31 patentably distinguish over Selker and withdrawal of the rejection is requested.

Page 12 of the Office Action rejects claims 20, 23-25 and 27-30 under 35 U.S.C. § 103 over Keely and Selker. On page 26 the Action rejects claim 22 over Selker and Keely. Claims 20, 22, 27 and 28 emphasize similar features to those discussed above. Keely adds nothing to Selker with respect to the above discussed features. The combination of Keely and Selker does not teach or suggest the features of these claims for the reasons discussed above. It is submitted that the claims distinguish over the prior art and withdrawal of the rejection is requested.

Page 17 of the Office Action rejects dependent claim 10 over Selker and Kurtenbach. Kurtenbach adds nothing to Selker with respect to the features discussed above. It is submitted that claim 10 distinguishes over the prior art and withdrawal of the rejection is requested.

Page 18 of the Office Action rejects claims 15-17 over Keely, Selker and Anderson. Anderson adds nothing to Keely and Selker with respect to the features of claim 15 similar to those discussed above (and likewise 16 and 17). It is submitted that claims 15-17 distinguish over the prior art and withdrawal of the rejection is requested.

Page 21 of the Office Action rejects claims 18 and 19 over Keely, Selker, Anderson and Kurtenbach. Claim 18 depends indirectly from claim 15 and is patentable for the reasons discussed above. Independent claim 19 also emphasizes the patentable features discussed above. It is submitted that claims 18 and 19 distinguish over the prior art and withdrawal of the rejection is requested.

It is also submitted that claim 26 continues to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

If any further fees, other than and except for the issue fee, are necessary with respect to this paper, the U.S.P.T.O. is requested to obtain the same from deposit account number 19-3935.

Respectfully submitted,

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